

ATTORNEY DOCKET NO.
004578.1025

PATENT APPLICATION
09/397,481

1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: HAWS, et al.
Serial No.: 09/397,481
Filed: September 16, 1999
Group No.: 3743
Examiner: Atkinson, C.
Title: METHOD AND APPARATUS FOR COOLING
 WITH A PHASE CHANGE MATERIAL AND
 HEAT PIPES

Assistant Commissioner
for Patents
Washington, D.C. 20231

Dear Sir:

LETTER TRANSMITTING MODIFIED FORM PTO-1449

This will acknowledge receipt of the PTO communication mailed May 10, 2001. For reasons discussed in more detail below, and at the request of Supervisor Primary Examiner Lazarus, a modified version of a previously-filed Form PTO-1449 is enclosed.

More specifically, the communication mailed May 10, 2001 asserted that Applicants' Letter filed April 20, 2001 was non-responsive, and was an attempt to delay prosecution of the application. Applicants disagree. MPEP 609 specifies that, when information has been submitted in compliance with 37 C.F.R. §§ 1.97 and 1.98, "the examiner has an obligation to consider the information". Applicants submitted various documents in a manner complying with Rules 97 and 98, and the Examiner did not fulfill the "obligation to consider the information" prior to issuance of the Office Action. As one

ATTORNEY DOCKET NO.
004578.1025

PATENT APPLICATION
09/397,481

2

example, Applicants submitted a document in the English language in a manner complying with Rules 97 and 98, and the Examiner refused to consider it on the ground that it was not in English. Thus, Applicants were not delaying prosecution, but merely asking that the examiner fulfill the "obligation to consider the information". The undersigned therefore decided to discuss this matter by telephone with the Examiner, and this will make of record related telephone conversations with Examiner Atkinson and Examiner Lazarus.

More specifically, the undersigned discussed this matter by telephone with Examiner Atkinson on May 16, 2001. This conversation did not result in resolution of the issue, and the undersigned therefore discussed the matter by telephone with Supervisory Examiner Lazarus. Examiner Lazarus asked for an opportunity to review the file and to discuss the matter with Examiner Atkinson.

Examiner Lazarus subsequently telephoned the undersigned back on May 22, 2001, and agreed that there were certain references which should have been considered. He requested that Applicants submit by facsimile a modified version of a previously-filed Form PTO-1449, asked that Applicants correct a typographical error in a patent number on that form, and asked with respect to three other documents that Applicants either provide additional information or indicate that certain elements of information were "unknown". Examiner Lazarus requested that this facsimile be filed by May 25, 2001, and indicated that the Patent Office would thereafter consider the documents listed on that modified Form PTO-1449, and then issue a further communication which would be accompanied by an initialed copy of that Form PTO-1449, and which would restart the period for a response.

Applicants do not concede that, aside from a typographical error, there were any defects in the previously-

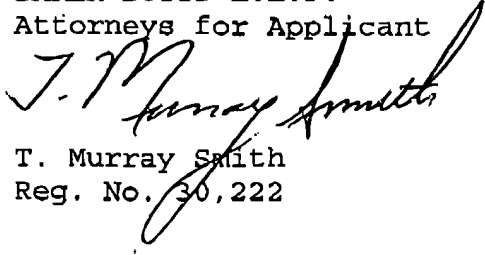
ATTORNEY DOCKET NO.
004578.1025

PATENT APPLICATION
09/397,481

3

filed Form PTO-1449. However, Applicants are willing to comply with the request of Examiner Lazarus in order to expedite examination of the present application. According, this Letter is being filed by facsimile, using a facsimile number specified by Examiner Lazarus, and is accompanied by the modified Form PTO-1449 requested by Examiner Lazarus. On the second page of this Form PTO-1449, a typographical error has been corrected in the patent number for Nemes U.S. Patent No. 5,225,964. Further, as to each of the three documents listed under the "Non-Patent Documents" heading on this same page, Applicants have supplied additional information and/or identified certain information as "unknown". The enclosed Form PTO-1449 is believed to address each facet of Examiner Lazarus' request. According, it is respectfully requested that all of the items listed on this modified Form PTO-1449 be considered on the merits, and that Applicants be sent a communication which is accompanied by an initialed copy of the modified Form PTO-1449, and which restarts the period for a response.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicant


T. Murray Smith
Reg. No. 30,222

BAKER BOTTS, L.L.P.
2001 Ross Avenue
Suite 600
Dallas, TX 75201-2980
(214) 953-6684
Date: May 24, 2001

Enclosures: Modified Version of Previously-
filed Form PTO-1449 (3 sheets)

BAKER BOTTS LLP

Fax receipt will not be confirmed by phone unless requested.

2001 ROSS AVENUE
DALLAS, TEXAS
75201-2980
214.953.6500
FAX 214.953.6503
www.bakerbotts.comAUSTIN
BAKU
DALLAS
HOUSTON
LONDON
NEW YORK
RIYADH
WASHINGTON#7
IDS

TO Examiner Ira Lazarus (Group 3743)

FAX NO. 703-308-7764

FIRM/COMPANY U.S. Patent and Trademark Office

VOICE NO. 703-308-1935

FROM T. Murray Smith

VOICE NO. 214.953.6684

DATE May 24, 2001

RETURN TO Judy Baggett

FAX NO. 214.953.6503

PAGES (including cover) 7

MESSAGE

In re Application of: HAWS, et al.
Serial No.: 09/397,481
Filed: September 16, 1999
Group No.: 3743
Examiner: Atkinson, C.
Title: METHOD AND APPARATUS FOR COOLING
WITH A PHASE CHANGE MATERIAL AND
HEAT PIPES
Attorney Docket No. 004578.1025

Kindly notify Examiner Ira Lazarus at 703-308-1935 as soon as this document has been received, for purposes of letting him know that this document is available for his consideration. A letter is attached, with enclosures.

Thank You.

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper (and enclosures, if any) is being transmitted by facsimile to the U.S. Patent and Trademark Office on the date shown below.

Signature: Kimberly WrightDate: 5-24-01**Notice of Confidentiality**

The information contained in and transmitted with this facsimile is: 1. Subject to the Attorney-client Privilege; 2. Attorney Work Product; or 3. Confidential. It is intended only for the individual or entity designated above. You are hereby notified that any dissemination, distribution, copying, or use of or reliance upon the information contained in and transmitted with this facsimile by or to anyone other than the recipient designated above by the sender is unauthorized and strictly prohibited. If you have received this facsimile in error, please notify Baker Botts L.L.P. by telephone at 214.953.6740 immediately. Any facsimile erroneously transmitted to you should be immediately returned to the sender by U.S. Mail or, if authorization is granted by the sender, destroyed.

If you do not receive all pages, please call: 214.953.6566 or 214.953.6740 for assistance.

BILLING NO. 004578.1025

ATTORNEY/EMPLOYEE NO. 03329

CRITICAL DEADLINE, SEND BY ASAP